

**CALIFORNIA BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS,
AND GEOLOGISTS**

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Fingerprinting

Sections Affected: Title 16, Sections 420.1, and 3021.1

Updated Information:

In addition to the reasons provided in the Initial Statement of Reasons, the California Board for Professional Engineers, Land Surveyors, and Geologists (Board) is presenting additional justification for fingerprinting requirements set by this rulemaking.

Specific Purpose of each adoption, amendment, or repeal:

Specifically, the term “applicant” is being defined to identify who shall participate in the fingerprint requirements. Additionally, sections waiving submission of fingerprint requirements and detailing operative dates for submission of fingerprints are being removed.

The Board is making the changes to sections 420.1 and 3021.1 in order to clarify who must participate in the fingerprint requirement and make the proposed language consistent with statute, specifically Business and Professions Code section 144 (c). Current language is vague when defining an applicant and modified text is aiming to specify statutory requirements. Removing the waiver options and operative dates is necessary in making the proposed language more effective.

Problem being addressed:

The sections being added are intended to clarify who shall be required to submit fingerprints to the Board. Those sections define applicants as initial applicants who have never been registered or licensed by the Board or are applicants for new licensure or registration category.

The Board is removing a section that waives all fingerprinting requirements if the applicant has already submitted fingerprints. This section conflicts with statutory intent and is being removed to conform to statute. The other section being removed identifies operative dates for fingerprinting requirements. Because the rules will not be effective until October 2013, we are well beyond the operative dates. This section has been removed.

Anticipated benefits from this regulatory action:

The fundamental benefit behind this request is protection of the public. The ultimate goal of the Department of Consumer Affairs and its boards and bureau is consumer

protection. By requiring fingerprints from applicants prior to licensure, the Board is taking a preventative approach in regulating the profession and protecting the consumer.

Factual Basis/Rationale

First, the Board is recommending this regulatory proposal to adopt changes to the application and licensing process currently administered. The Board is requiring applicants to submit fingerprints during the application process. The term applicants refers to initial applicants who have never been registered or licensed by the Board or are applicants for new licensure or registration category. Requiring fingerprints from applicants and receiving criminal history information is an essential and basic requirement that must be met to receive a license from the Board. By requiring fingerprints and reviewing criminal history prior to licensure the Board expects a reduction in consumer complaints, which will result in decreased enforcement cases. Through May 2013, the Board has 308 case complaints pending further investigation. These cases include fraud, deceit, misrepresentation, negligence, incompetence, and other violations. By requiring fingerprints and criminal history records the Board can take a pro-active approach by immediately overseeing applicants as they seek licensure, thus reducing future complaints. The result will be a licensing profession comprised of individuals who are competent and professional. This guarantees protection of the public and the consumer.

Second, the Board is requiring the applicant to certify that fingerprints have been furnished to the Department of Justice (DOJ). This certification coincides with the self-certification the applicant signs when filling out an application. The applicant states that all documents and information provided in the application are true and correct under penalty of perjury by the State of California. Also, the applicant must pay any costs for furnishing the fingerprints and subsequent criminal reports. This fee is paid directly to DOJ, Federal Bureau of Investigations, and the LiveScan vendor that provides the service. The Board does not participate or receive any revenue from this transaction.

Lastly, the Board will maintain, on file, the applicant's application for up to two years if any part of the application, including furnishing fingerprints, is missing. The Board will make every attempt to assist with completion of the application so that the applicant does not forfeit the application fee.